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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION

ICON HEALTH & FITNESS, INC., a  
Delaware corporation,

Case No.: SACV08-00437 CJC (RNBx)

**Plaintiff,**

V.

OCTANE FITNESS, LLC, a Minnesota limited liability company, and NELLIE'S EXERCISE EQUIPMENT, INC., a California corporation,

## Defendants.

**COMPLAINT FOR  
PATENT INFRINGEMENT**

**[Demand For Jury Trial]**

1 Plaintiff ICON Health & Fitness, Inc. ("ICON"), hereby complains against  
2 defendants Octane Fitness, LLC, and Nellie's Exercise Equipment, Inc. (collectively,  
3 "Defendants"), and alleges as follows:

4 **I. THE PARTIES**

5 1. ICON is a corporation duly organized and existing under the laws of the  
6 State of Delaware, with its principal place of business at 1500 South 1000 West, Logan,  
7 Utah 84321.

8 2. Upon information and belief, defendant Octane Fitness, LLC ("Octane") is a  
9 Minnesota limited liability company having a place of business at 9200 Wyoming  
10 Avenue North, Suite 390, Brooklyn Park, Minnesota 55445.

11 3. Upon information and belief, defendant Nellie's Exercise Equipment, Inc.  
12 ("Nellie's") is a California corporation having a place of business at 2410 Wardlow  
13 Road, Suite 103, Corona, California 92880.

14 **II. JURISDICTION AND VENUE**

15 4. This is a civil action by ICON for patent infringement committed by  
16 Defendants, which arises under the patent laws of the United States, including 35 U.S.C.  
17 §§ 271, 281, 283, 284, and 285.

18 5. Because ICON's claims for relief arise under the laws of the United States,  
19 this Court has original subject matter jurisdiction over such claims pursuant to 28 U.S.C.  
20 § 1331.

21 6. Because ICON's claims for relief arise under acts of Congress relating to  
22 patents, this Court has original subject matter jurisdiction over such claims pursuant to 28  
23 U.S.C. § 1338(a).

24 7. ICON further alleges on information and belief that defendant Octane has  
25 sold or contracted for the sale of infringing goods to defendant Nellie's and to others  
26 within the State of California, and that Nellie's and others have in turn sold those goods  
27 to the consuming public. These actions by Defendants relate to and, in part, give rise to  
28 the claims asserted herein by ICON, and have resulted in injury to ICON.

1       8. This Court's exercise of personal jurisdiction over out-of-state defendant  
2 Octane is consistent with the Constitutions of the United States and the State of  
3 California. Moreover, this Court has personal jurisdiction over Octane pursuant to  
4 California Code of Civil Procedure § 410.10.

5       9. Defendant Nellie's is subject to the personal jurisdiction of this Court  
6 because Nellie's is a California corporation.

7       10. Pursuant to 28 U.S.C. § 1391(c), Octane and Nellie's are deemed to reside in  
8 this judicial district for purposes of venue.

9       11. Venue is proper in this judicial district pursuant to, at least, 28 U.S.C. §  
10 1391(b) and 28 U.S.C. § 1400(b). In particular, acts of infringement by Defendants have  
11 occurred within this Division of the Court.

### 12                   **III. FACTUAL BACKGROUND**

13       12. ICON is an award-winning innovator in the field of exercise equipment and  
14 provides a variety of consumer products.

15       13. Many of the technological innovations owned by ICON are protected by a  
16 portfolio of utility and design patents, including United States Patent Nos. 5,104,120 and  
17 6,019,710 (the "Asserted Patents"), true and correct copies of which are attached hereto  
18 respectively as Exhibit A and Exhibit B.

19       14. ICON is the owner by assignment of the Asserted Patents.

20       15. ICON has not licensed Octane or Nellie's to practice the Asserted Patents,  
21 and neither Octane nor Nellie's has any right or authority to license others to practice the  
22 Asserted Patents.

### 23                   **IV. FIRST CLAIM FOR RELIEF**

#### 24                   *Infringement by Octane of the Asserted Patents*

25       16. By this reference ICON realleges and incorporates the foregoing paragraphs  
26 1 through 15, as though fully set forth herein.

27       17. ICON alleges on information and belief that Octane has infringed and  
28 continues to infringe the Asserted Patents by making, using, selling, offering for sale

1 within the United States, or importing into the United States systems and products that  
 2 embody one or more of the claims of the Asserted Patents, or by contributing to  
 3 infringement, inducing others to infringe the Asserted Patents, or carrying out acts  
 4 constituting infringement under 35 U.S.C. § 271(f). By way of example and not  
 5 limitation, one such act of infringement is Octane's manufacture and sale of the Octane  
 6 Fitness Q47 Series exercise device.

7       18. ICON alleges on information and belief that, unless and until enjoined by  
 8 this Court, Octane will continue to infringe the Asserted Patents.

9       19. The conduct of Octane as set forth hereinabove gives rise to a claim for  
 10 infringement of the Asserted Patents, pursuant to at least 35 U.S.C. §§ 271 and 281.

11       20. ICON alleges on information and belief that Octane will continue to infringe  
 12 the Asserted Patents subsequent to receiving notice of the initiation of this action despite  
 13 an objectively high likelihood that its actions constitute infringement, thereby making its  
 14 actions both willful and deliberate.

15       21. By reason of the foregoing, ICON is entitled to injunctive and monetary  
 16 relief against Octane, pursuant to 35 U.S.C. §§ 283, 284, and 285.

## 17                   V. **SECOND CLAIM FOR RELIEF**

### 18                   *Infringement by Nellie's of the Asserted Patents*

19       22. By this reference ICON realleges and incorporates the foregoing paragraphs  
 20 1 through 21, as though fully set forth herein.

21       23. ICON alleges on information and belief that Nellie's has infringed and  
 22 continues to infringe the Asserted Patents by making, using, selling, offering for sale  
 23 within the United States, or importing into the United States, systems and/or products that  
 24 embody one or more of the claims of the Asserted Patents, or by contributing to  
 25 infringement, inducing others to infringe the Asserted Patents, or carrying out acts  
 26 constituting infringement under 35 U.S.C. § 271(f). By way of example and not  
 27 limitation, one such act of infringement is Nellie's' sale of the Octane Fitness Q47 Series  
 28 exercise device.

24. ICON alleges on information and belief that, unless and until enjoined by this Court, Nellie's will continue to infringe the Asserted Patents.

25. The conduct of Nellie's as set forth hereinabove gives rise to a claim for infringement of the Asserted Patents, pursuant to at least 35 U.S.C. §§ 271 and 281.

26. ICON alleges on information and belief that Nellie's will continue to infringe the Asserted Patents subsequent to receiving notice of the initiation of this action despite an objectively high likelihood that its actions constitute infringement, thereby making its actions both willful and deliberate.

27. By reason of the foregoing, ICON is entitled to injunctive and monetary relief against Nellie's, pursuant to 35 U.S.C. §§ 283, 284, and 285.

## VI. PRAYER FOR RELIEF

WHEREFORE, ICON prays for judgment against Defendants as follows:

A. A judgment finding Defendants liable for infringement of the Asserted Patents;

B. An Order of this Court pursuant to at least 35 U.S.C. § 283 permanently enjoining Defendants, their agents and servants, and any and all parties acting in concert with any of them, from: directly or indirectly infringing in any manner the Asserted Patents, whether by making, using, selling, offering to sell, or importing into the United States any product falling within the scope of any of the claims of the Asserted Patents; engaging in acts constituting contributory infringement of any of the claims of the Asserted Patents; or inducing others to engage in any of the aforementioned acts or otherwise;

C. An Order of this Court pursuant to at least 35 U.S.C. § 283 directing Defendants to destroy their entire stock of infringing products within the United States:

D. An award of damages to ICON, in an amount to be proven at trial, pursuant to at least 35 U.S.C. § 284;

E. Trebling of ICON's damages in view of the willful infringement by Defendants, and the award of such trebled damages to ICON, pursuant to at least 35 U.S.C. § 284;

F. An award to ICON of prejudgment interest, pursuant to at least 35 U.S.C. § 284;

G. An award to ICON of its costs in bringing this action, pursuant to at least 35 U.S.C. § 284, and Rule 54(d)(1) of the Federal Rules of Civil Procedure;

H. That this be declared an exceptional case, and that ICON be awarded its attorneys' fees and expenses, pursuant to at least 35 U.S.C. § 285;

I. An award of post-judgment interest, pursuant to at least 28 U.S.C. § 1961(a);  
and

J. For such other and further relief as the Court deems just, proper, and equitable.

## **VII. DEMAND FOR JURY**

ICON demands TRIAL BY JURY of all causes so triable.

DATED: April 22, 2008

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# EXHIBIT A



US005104120A

## United States Patent [19]

Watterson et al.

[11] Patent Number: 5,104,120  
 [45] Date of Patent: Apr. 14, 1992

## [54] EXERCISE MACHINE CONTROL SYSTEM

[75] Inventors: Scott R. Watterson, River Heights; William T. Dalebout; Curt G. Bingham, both of Logan, all of Utah

[73] Assignee: Proform Fitness Products, Inc., Logan, Utah

[21] Appl. No.: 306,861

[22] Filed: Feb. 3, 1989

[51] Int. Cl. 5 A63B 21/005

[52] U.S. Cl. 482/5; 482/7; 482/8; 482/54; 482/63

[58] Field of Search 272/69, 70, 73, 129, 272/DIG. 5, DIG. 6; 128/25 R; 73/379; 434/247, 392

## [56] References Cited

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Primary Examiner—Richard J. Apley

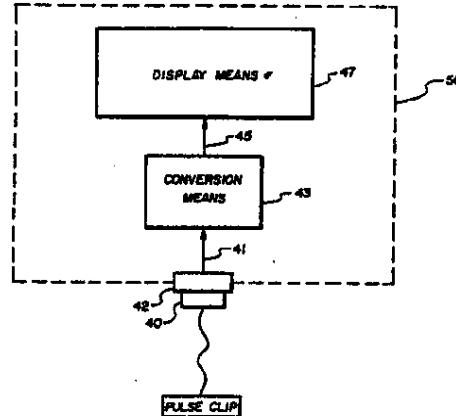
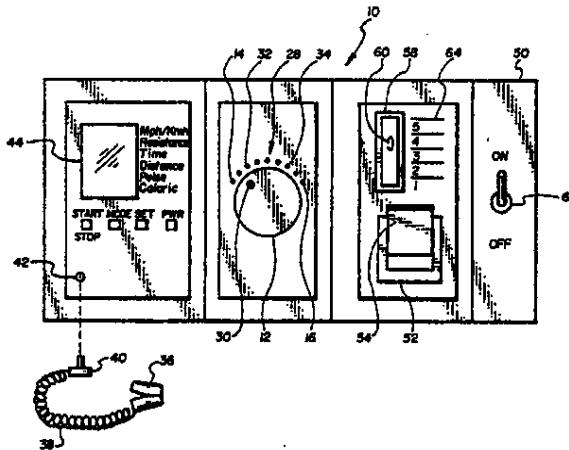
Assistant Examiner—Joe H. Cheng

Attorney, Agent, or Firm—Trask, Britt & Rossa

## [57] ABSTRACT

A control system includes an adjustment knob to regulate the resistance of the exercise machine such as a treadmill, rowing machine, or stationary exercise cycle. Various indicia are positioned proximate the knob so the user may specifically select an exercise program and real time feedback of exercise performance through the use an ear clip supplying pulse information or other biological data which is converted and displayed for observation by the user.

8 Claims, 4 Drawing Sheets



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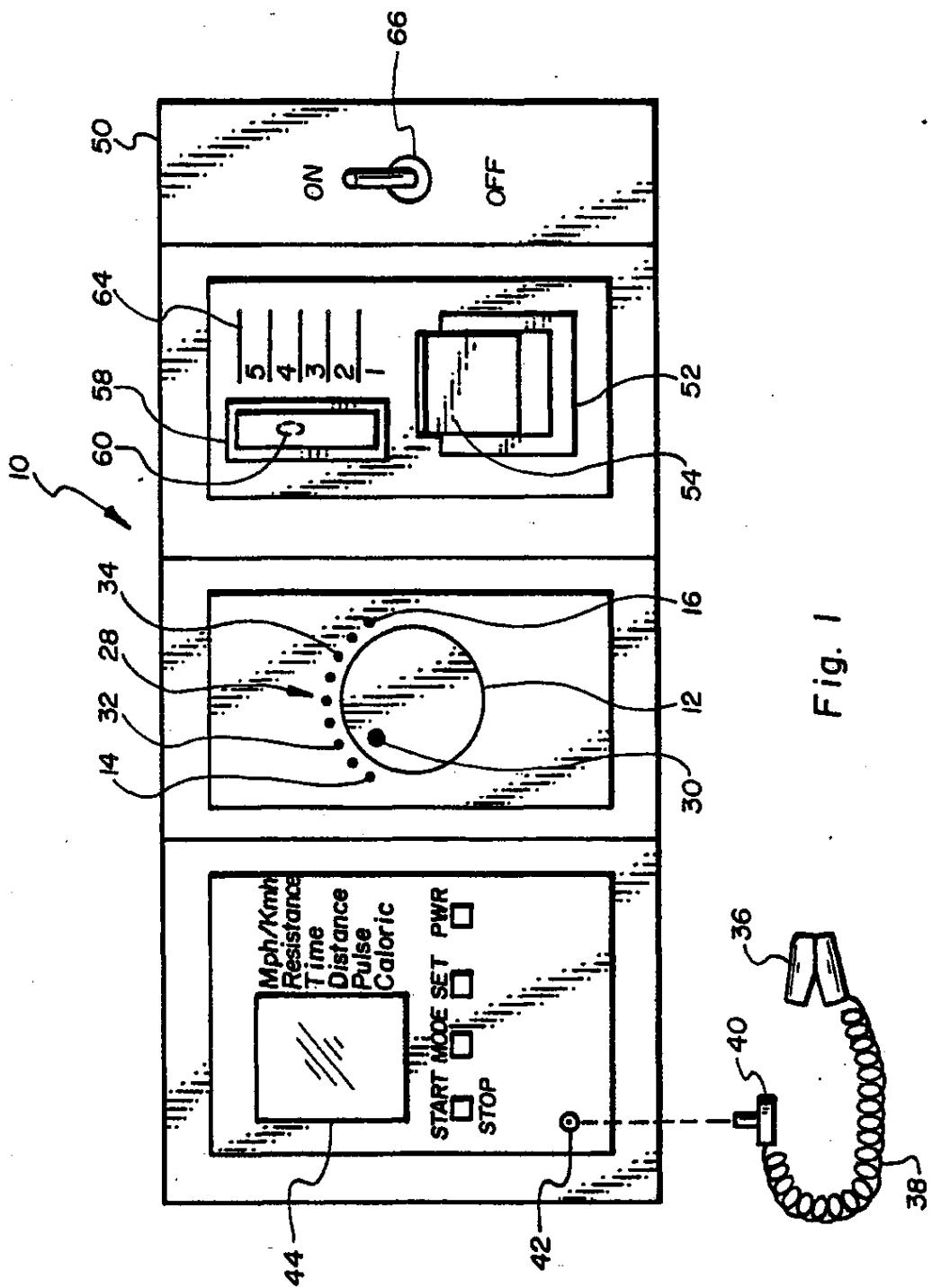


Fig. 1

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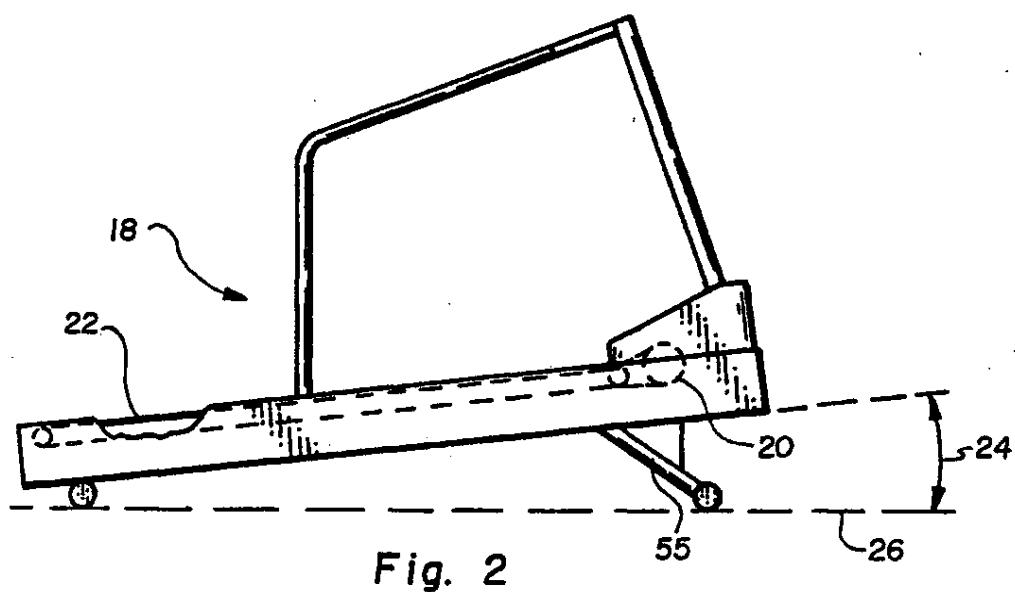


Fig. 2

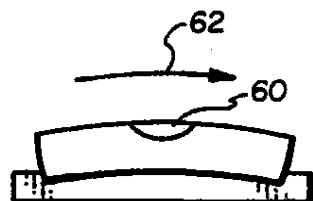


Fig. 3

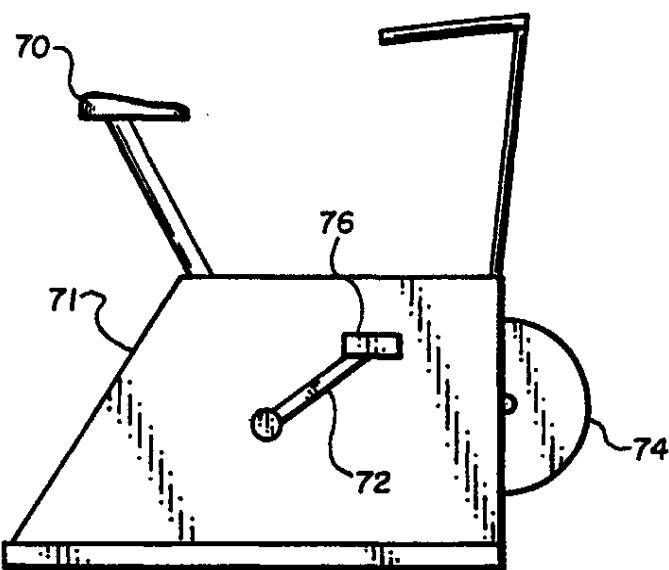


Fig. 4

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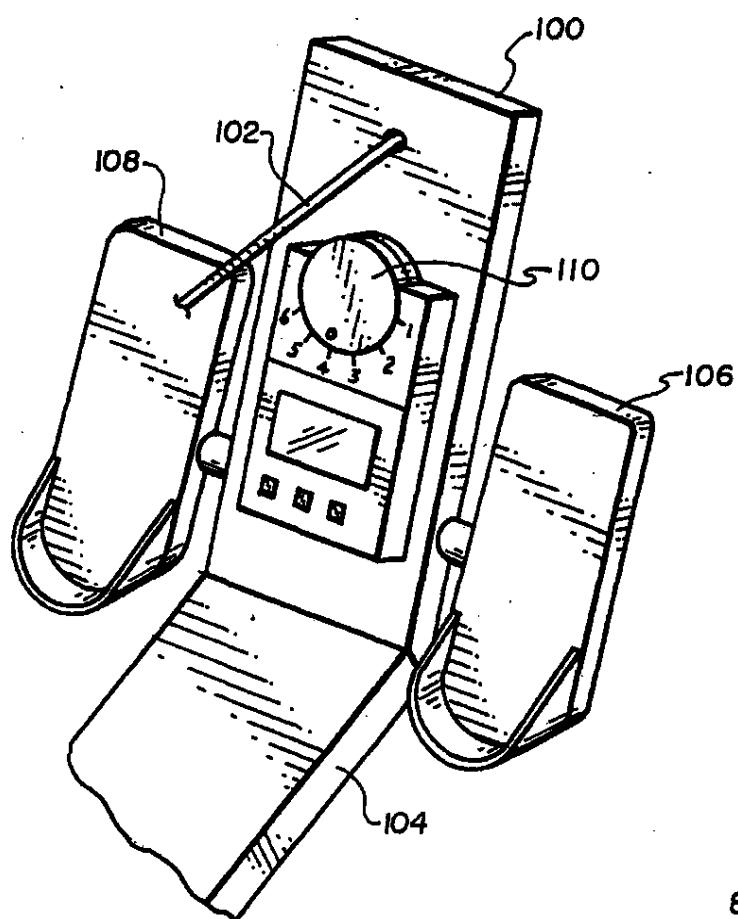


Fig. 6

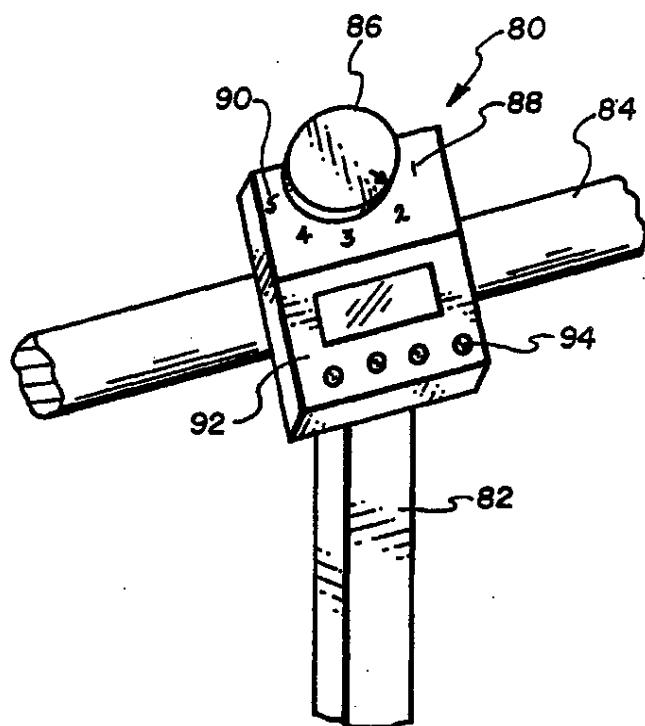


Fig. 5

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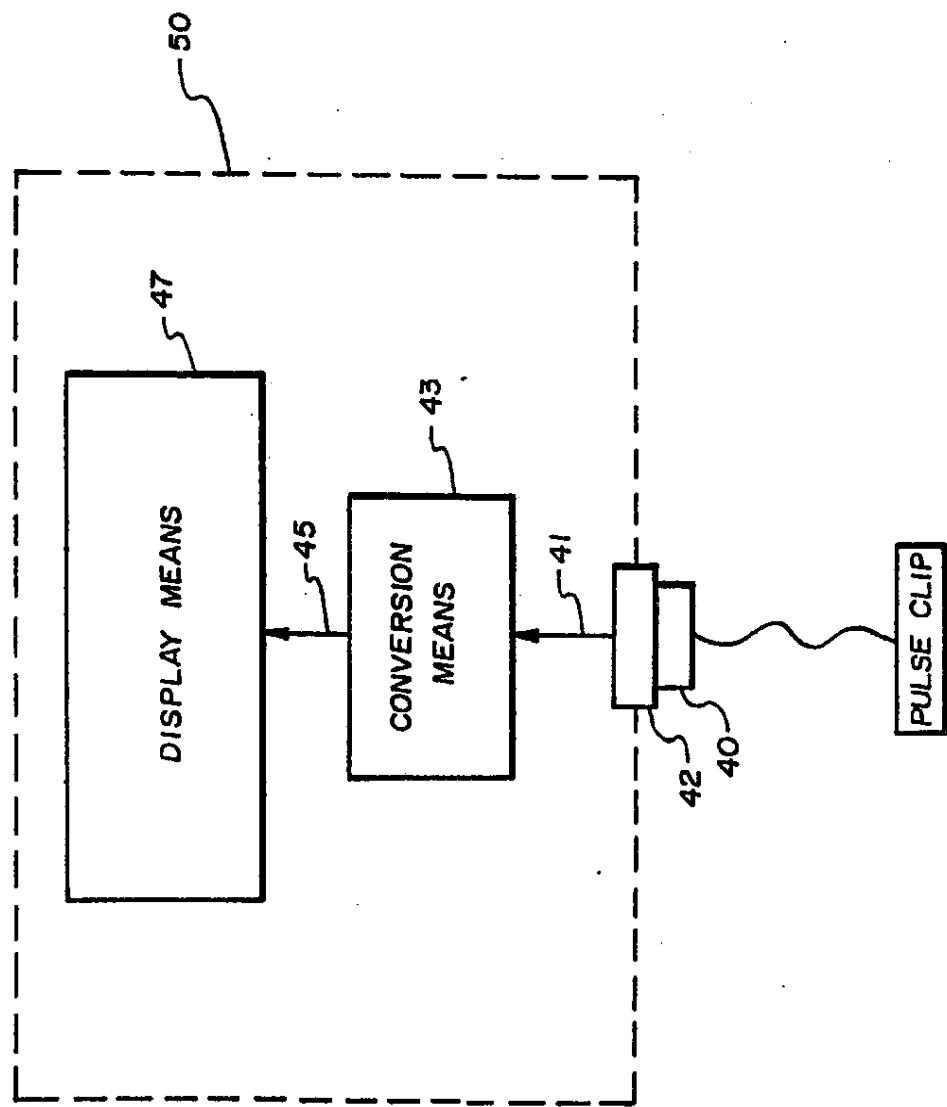


Fig. 7

## EXERCISE MACHINE CONTROL SYSTEM

## BACKGROUND OF THE INVENTION

## 1. Field

This invention relates to exercise machines which have means to resist movements of the user in the performance of exercises.

## 2. State of the Art

Typical exercise machines now widely in use have a resistance so that a user will suffer an exercise benefit upon the performance of a particular exercise. For example, a motorized treadmill may be used to perform walking or jogging type exercises with the resistance or degree of difficulty varying based on the angle of inclination of the treadmill surface with horizontal. In some models, the user may also adjust the speed of the tread to regulate the exercise.

Stationary exercise cycles similarly have a means to regulate the resistance. That is, many stationary exercise cycles have a rotating flywheel with resistance structure such as a brake to simulate the resistance experienced if one were to pedal a bicycle under actual conditions. By adjusting the resistance, the user can change the degree of difficulty being experienced in causing the flywheel to rotate by pedalling.

Similarly, rowing machines of the type that use a cable connected to a flywheel structure may be operated in a fashion similar to a stationary exercise cycle to vary the degree of resistance or the difficulty of particular exercises. For some users, a coordinated exercise program is desirable in which the hardness or the degree of difficulty of the exercise is varied throughout a selected exercise period such as one half of an hour.

Although adjustments have been available to regulate the hardness or degree of difficulty of a particular exercise, a control system with feedback has not been presented to provide the user with the ability to quantitatively and easily regulate the hardness throughout the course of a particular exercise or from one exercise period to another later exercise period.

## SUMMARY OF THE INVENTION

A control system is presented for use with an exercise machine which has resistance means to resist movement of the user in the performance of exercises. It has control means interconnectable to the resistance means for operation by the user in an extemporaneous manner to control the resistance means to vary the resistance between an easy configuration for the performance of easy exercises and a hard configuration for the performance of hard exercises by the user of the exercise machine. The control system also includes indication means positioned proximate the control means to indicate the relative selection of the control means between the easy configuration and the hard configuration and feedback means interconnectable to the user to detect and supply selected biological data while the user is operating the exercise machine. Conversion means are connected to receive the biological data and to convert the biological data into selected display data. Display means are further interconnected to the conversion means and positioned for observation by the user performing exercises on the exercise machine to display the biological data, in real time.

The feedback means is desirably a pulse detector connected to the user to detect the user's pulse and to supply a signal reflective thereof to the conversion

means. As known, the conversion means assumes that an average number of calories are burned at a given pulse rate, given that the pulse rate reflects the degree of exertion during the exercise. The display means also is capable of displaying pulse data and calorie burn data.

In a more preferred arrangement, the control system includes a chassis positioned on the exercise machine with the control means associated therewith for operation by the user. The conversion means and the display means are also adapted to the chassis.

The exercise machine may be a motorized treadmill in which the control means includes the speed adjustment to regulate the speed of the treadmill and an adjustment to operate the incline of the treadmill. The indication means may include an inclinometer adapted to the chassis with a scale positioned proximate thereto to indicate the relative inclination of the treadmill.

The exercise machine may also be a stationary exercise cycle. Control means includes a friction adjustment mechanism to frictionally resist movement of the pedals of the stationary exercise cycle. The exercise machine may also be a rowing machine of the type which has a flywheel and cable arrangement.

A method of exercising is presented which includes use of the control system on an exercise machine in order to provide the user with means to control exercise by regulating the resistance and in turn the pulse rate and in turn the calorie burn of the user.

## BRIEF DESCRIPTION OF THE DRAWINGS

In the drawings, which illustrate what is presently regarded as the best mode for carrying the invention:

FIG. 1 is a frontal depiction of a control system of the instant invention;

FIG. 2 is a side view depiction of a motorized treadmill of the type suitable for use with the instant invention;

FIG. 3 is an enlarged side depiction of a portion of an inclinometer for use with the treadmill of FIG. 2;

FIG. 4 is a side depiction of an exercise cycle of the type for which the control system of the instant invention may be used;

FIG. 5 is a partial three-dimensional cut-away depiction of a control system adapted to a stationary exercise cycle;

FIG. 6 is a portion of a rowing machine with cable having a control system of the instant invention adapted thereto; and

FIG. 7 is a block diagram of portions of the control system of the instant invention.

## DESCRIPTION OF THE ILLUSTRATED EMBODIMENT

FIG. 1 illustrates the observable components of a control system generally referred to by the number 10. The control system 10 includes control means which are here shown to include a knob 12 which is operable between an easy configuration 14 and a hard configuration 16. That is, knob 12 can be rotated between the easy configuration 14 and the hard configuration 16 as desired by the user to in turn regulate the resistance means of an exercise machine in which the resistance means resists movement of the user in the performance of selected exercises such as a treadmill of the type illustrated in FIG. 2.

Those skilled in the art will recognize that a treadmill 18 of the type shown in FIG. 2 is operated by a motor

which is positioned interior of the chassis and is shown here in phantom 20 to in turn propel a tread or endless belt 22 upon which the user stands in order to walk or jog or run. Since the motor 20 typically can be operated at different speeds by operation of a desired control, it 5 can be seen that the pace of the user can be voluntarily changed to increase the degree of difficulty of a particular exercise from a slow walk to a run (i.e., from easy to hard).

The treadmill 18 of FIG. 2 can be raised or lowered 10 to adjust its inclination 24 with respect to the support surface 26 upon which the treadmill 18 resides. Increasing the inclination 24 can increase the degree of difficulty or hardness of the exercise (e.g., walking or jogging) between level and an uphill configuration (i.e., 15 from easy to hard).

For the control system 10 shown in FIG. 1, the knob 12 is connected to vary the speed of a treadmill such as the treadmill 18 of FIG. 2 and more particularly the speed of the tread 22. Thus when the knob 12 is in 20 position or configuration 14, the treadmill is in an easy configuration in which the resistance is set for the performance of easy exercises. That is, the treadmill is moving at a relatively slow speed so that the exercise being performed may be viewed as a walk. The knob 12 25 can then be positioned clockwise to the hard position 16. In the hard configuration 16 the resistance is set for the performance of hard exercises. That is, the speed of the tread 22 (FIG. 2) is increased so that the user by definition will need to jog or run at a substantially 30 quicker pace, which is in turn deemed to be a hard exercise. As known, the user thereby increases his or her pulse rate as the user quickens his or her pace.

The control means also has indicia positioned proximate thereto. More particularly, the knob 12 has a scale 35 28 to indicate the relative selection between the easy configuration 14 and the hard configuration 16. An index or scribe 30 is imprinted on the knob 12 and may be rotated to register with any one of a plurality of dots or other index marks of the scale 28. Therefore a user 40 may start an exercise with the index 30 in alignment or in registration with a dot such as dot 32. After a period of time the speed of the treadmill may be increased by 45 aligning the index 30 in registration with dot 34. Thus the user extemporaneously selects a harder exercise. The speed of the treadmill can thus be adjusted by the user according to his or her own experience, personal capability and desires.

The control means of FIG. 1 also includes feedback means which were shown to be a pulse clip 36 for interconnection to a finger, earlobe or similar appendage or portion of the body. The pulse clip 36 is known to those skilled in the art and senses the pulse of the user and transmits signals reflective thereof via conductors 38 to a connector 40 for further connection via receptacle 42 55 to a conversion system. That is, circuitry is provided to convert the biological data being received from the clip 36 through the connector 40 and receptacle 42. The conversion means converts the pulse data being transmitted into selected display data which may be shown 60 on the face 44 of a display means which is here shown positioned for observation by the user performing exercises on the exercise machine. The circuitry (not shown) is available and may be easily assembled by those skilled in the art.

The biological data being received via the clip 36 and the connector 40 and receptacle 42 may be displayed on the display 44 as selected or as desired by the user. With

the display of a particular biological function such as pulse, the user may operate the knob 12 to a pre-selected selected scale point such as the third dot 32 to vary the hardness of the exercise to achieve a particular pulse or pulse rate which would then be displayed on the screen 44. Thus the user can extemporaneously devise and operate an exercise program to regulate his or her own pulse rate in real time throughout the period of exercise.

The control system 10 preferably includes a chassis 50 which is positioned on the selected exercise machine with the control means associated therewith for operation by the user. The conversion means and the display means are also adapted to the chassis 50.

In one embodiment the exercise machine is a motorized treadmill such as the treadmill 18 previously described and shown in FIG. 2. The control means includes the knob 12 which functions as a speed adjustment to regulate the speed of the tread 22. The control means also includes an incline adjustment 52 which may be operated by the user to adjust the angle of incline 24 (FIG. 2) of the treadmill 18. As here shown, the incline adjustment 52 includes a paddle switch 54 which is interconnected connected to operate a cylinder to in turn operate the front leg structure 55 of the treadmill 18 of FIG. 2 similar to that illustrated and described in copending and commonly assigned U.S. patent application Ser. No. 009,270 filed Jan. 30, 1987, and now abandoned, the disclosure of which is hereby incorporated by reference thereto.

The precise angle of inclination 24 is desirable information not heretofore available. The control system of FIG. 1 includes an inclinometer 58 which is mounted or adapted to chassis 50. Upon operation of the incline adjustment 52, the inclinometer 58 will indicate to the user the relative incline selected. A gas bubble 60 moves lengthwise 62 (FIG. 3) to indicate the relative inclination with respect to indicia 64 (FIG. 1) which is a numbered scale. Particular angle of inclination 24 (FIG. 2) for the number or index 64 (FIG. 1) is used to reposition the treadmill 18 to substantially the same level of inclination 24 as used in prior exercises or increased as desired by the user during the course of a particular exercise routine.

The control system of FIG. 1 may also include a simple on-off switch 66 to energize and de-energize the motor 20.

The exercise machine may also be an exercise cycle such as the one shown in FIG. 4. The cycle of FIG. 4 uses a control system as better illustrated in FIG. 5. The exercise cycle of FIG. 4 has a seat arrangement 70 adapted to a frame 71 which has a pedal or crank structure 72 interconnected by chains, brackets or other gear drive means to a flywheel 74. Exercise benefit is obtained by placing the user's feet upon pedals 76 and rotating the pedal mechanism 72 to in turn cause the flywheel 74 to operate. A brake, strap, band or other similar arrangement may be adapted to frictionally resist rotation of the flywheel 74. Such a resistance structure may be regulated by operation of a knob or lever on a variety of different known exercise cycles.

In the instant invention, control means 80 of FIG. 5 is shown adapted at the top of the upright post 82 of a cycle near the connection to handle bar structure 84. The control means of the claimed invention includes a knob 86 which is connected to the frictional resistance means in order to vary the resistance to the rotation of the flywheel 74 (FIG. 4) between an easy configuration 88 and a hard configuration 90. In the easy configura-

tion, the resistance to the rotation of the flywheel 74 is selected to be minimal so that the user may easily and comfortably pedal the pedal mechanism 72. The knob 86 may be rotated to the hard position or configuration 90 in which considerable amount of resistance is imposed to resist the movement of the flywheel 74 and in turn cause the user positioned on the exercise cycle to pedal more strenuously to cause rotation of the flywheel 74.

The control system 80 shown in FIG. 5 includes 10 display means 92 to display a variety of different functions. The display means 92 also includes feedback means and conversion means to convert feedback data such as pulse rate data. The feedback means includes a pulse clip, such as the clip 36, which plugs into receptacle 94. Operation of the control means 80 is substantially the same as discussed in reference to the control means of FIG. 1.

In another embodiment, a rowing machine 100 is provided. It is of the type which has a cable 102 that is 20 pulled in and out against a resistance arrangement by the user pulling on a handle or other means affixed to the distal end of the cable 102. The rowing machine 100 includes a base frame structure 104 and foot supports 106 and 108. A control system shown on the rowing 25 machine 100 of FIG. 6 regulates the resistance against movement of the cable 102 in a manner substantially identical to that described with respect to FIG. 5.

FIG. 7 shows a simplified block diagram of portions of the described control system for the treadmill (FIG. 30 2). Pulse data is detected by a pulse clip 36 which is appended to the user as hereinbefore stated. The pulse data is transmitted via conductor 38, through connector 40 and receptacle 42, to the conversion means 43 via conductor 41. As hereinbefore stated, the conversion 35 means 43 converts the pulse data using constants to supply selected display data via conductor 45 to the display means 47.

In operation the user is positioned on a selected exercise machine. The user undertakes to operate the exercise machine by either pedalling, rowing, jogging/running, or the like. The degree of difficulty or resistance being imposed to the performance of the exercise is controlled and adjusted by control means which are here shown to be adjustment knobs 12 (FIG. 1), 45 46 47 86 (FIG. 5) and 110 (FIG. 6). Upon operation of the knob, the user can in turn control his or her own pulse rate and in turn his or her own rate of total calorie burn assuming the average amount of calories are burned for a given degree or quantity of exercise. Using standard 50 conversions, the user may be in a position to control his or her pulse rate and in turn the calorie burn rate to secure the maximum benefit from performance of particular exercises.

It is to be understood that the embodiments of the 55 invention of the above described are merely illustrative of the application of the principals of the instant invention. Reference herein to details of the illustrated embodiment is not intended to limit to scope of the claims which themselves recite those features regarded as essential to the invention.

We claim:

1. A control system for controlling an exercise machine having resistance means to resist movement of the user in the performance of exercises, said control system 65 comprising:

control means interconnectable to the resistance means of an exercise machine for extemporaneous

manual operation by the user during performance of the exercises on said exercise machine without interrupting said performance of the exercises to set said resistance means between an easy configuration in which said resistance means is set for the performance of easy exercises by the user on said exercise machine and a hard configuration in which said resistance means is set for the performance of hard exercises by said user on said exercise machine;

indication means positioned proximate said control means to indicate the relative selection of said control means between said easy configuration and said hard configuration;

pulse detection means interconnectable to said user to detect and supply a pulse signal reflective of the user's pulse while said user is operating said exercise machine;

conversion means connected to receive said pulse signal and to convert said pulse signal into selected biological display data; and

display means interconnected to said conversion means to display said selected biological display data including said pulse signal in real time and positioned for observation by said user while performing exercises on said exercise machine.

2. The control system of claim 1 wherein said selected biological display data includes a rate of calorie burn, wherein said conversion means provides said pulse signal and said rate of calorie burn to said display means, and wherein the display means includes means to display said rate of calorie burn.

3. The control system of claim 2 further including a chassis positionable on said exercise machine, said control means being adapted to said chassis for operation by the user, and said conversion means and said display means also adapted to said chassis.

4. The control system of claim 3 wherein said control means is adapted to control a motorized treadmill having tread and arranged with an incline, wherein said control means includes a speed adjustment means connectable to regulate the speed of the tread and incline adjustment means connectable to operate means to regulate the incline of said treadmill.

5. The control system of claim 4 wherein said indication means includes an inclinometer adapted to said chassis and a scale positioned proximate said inclinometer to indicate the relative inclination of said treadmill.

6. The control system of claim 5 wherein said indication means further includes a scale positioned proximate said speed adjustment to indicate settings between a slow speed and a fast speed.

7. The control system of claim 3 wherein said control means is adapted to control a stationary exercise cycle having a frictional resistance mechanism to frictionally resist movement of pedals of said stationary exercise cycle, wherein said control means further includes frictional adjustment means connectable to said frictional resistance mechanism to vary the amount of friction exerted thereby.

8. A method for controlling an exercise machine having adjustable resistance means to resist movement of the user performing exercises, said method comprising:

providing an exercise machine having adjustable resistance means operable between selected positions to resist movement of the user performing exercises thereon;

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interconnecting a control means to said adjustable resistance means of the exercise machine; 5 extemporaneously manually operating said control means during performance of the exercises without interrupting said performance of exercises to adjust said resistance means between an easy configuration in which said resistance means is set for the performance of easy exercises by the user on the exercise machine and a hard configuration in which said resistance is set for the performance of hard exercises by the user on the exercise machine; providing indication means and positioning it proximate said control means to indicate the relative selection of a position of said control means between said easy configuration and said hard configuration; 10 providing a pulse detector and connecting it to the body of a user to supply a pulse signal reflective of the user's pulse during exercise; 15 20

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providing conversion means and connecting it to said pulse detector to receive said pulse signal and for generating a calorie burn rate signal and supplying a signal reflective of said calorie burn rate and for supplying said pulse signal; providing a display means to receive and to display said pulse signal and said calorie burn rate signal and connecting said conversion means thereto to receive said signals reflective of said calorie burn rate and said pulse signal; causing said conversion means and said display means to operate; observing said display of said pulse signal and said calorie burn rate, and in response thereto, manually operating said control means as desired and in an extemporaneous manner to adjust said resistance means to another selected position from said hard configuration to said easy configuration to regulate the pulse rate of the user. \* \* \* \* \*

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## EXHIBIT B



US006019710A

United States Patent [19]

Dalebout et al.

[11] Patent Number: 6,019,710

[45] Date of Patent: Feb. 1, 2000

[54] EXERCISING DEVICE WITH ELLIPTICAL MOVEMENT

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[21] Appl. No.: 09/003,322

[22] Filed: Jan. 6, 1998

[51] Int. Cl.<sup>7</sup> ..... A63B 22/04; A63B 69/16  
[52] U.S. Cl. ..... 482/70; 482/51  
[58] Field of Search ..... 482/51-53, 57,  
482/70, 79, 80, 71

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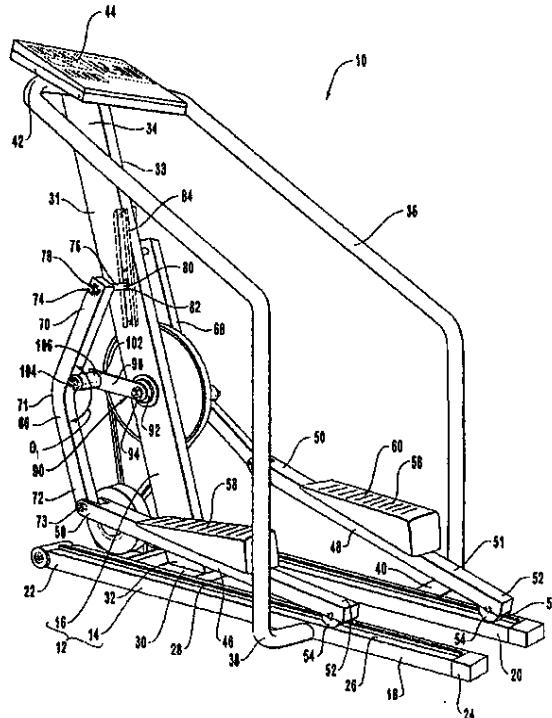
*Primary Examiner*—S. Crow

*Attorney, Agent, or Firm*—Workman, Nydegger & Seeley

[57] ABSTRACT

An exercise apparatus includes a base having a support stand upstanding therefrom. A pair of spaced apart foot rails each have a first end and opposing second end. The second end of each foot rail rests on the base of the frame. A pair of stroke rails each have a first end and an opposing second end. The first end of each stroke rail is slidably attached to the support stand of the frame while the second end of each stroke rail is hingedly attached to a corresponding foot rail. An axle of a crank is rotatably mounted to the support stand. A pair of crank arms each orthogonally project from the corresponding ends of the axle in opposing directions. Each remote end of the crank arm is rotatably mounted to a corresponding stroke rail between the ends thereof.

**34 Claims, 6 Drawing Sheets**



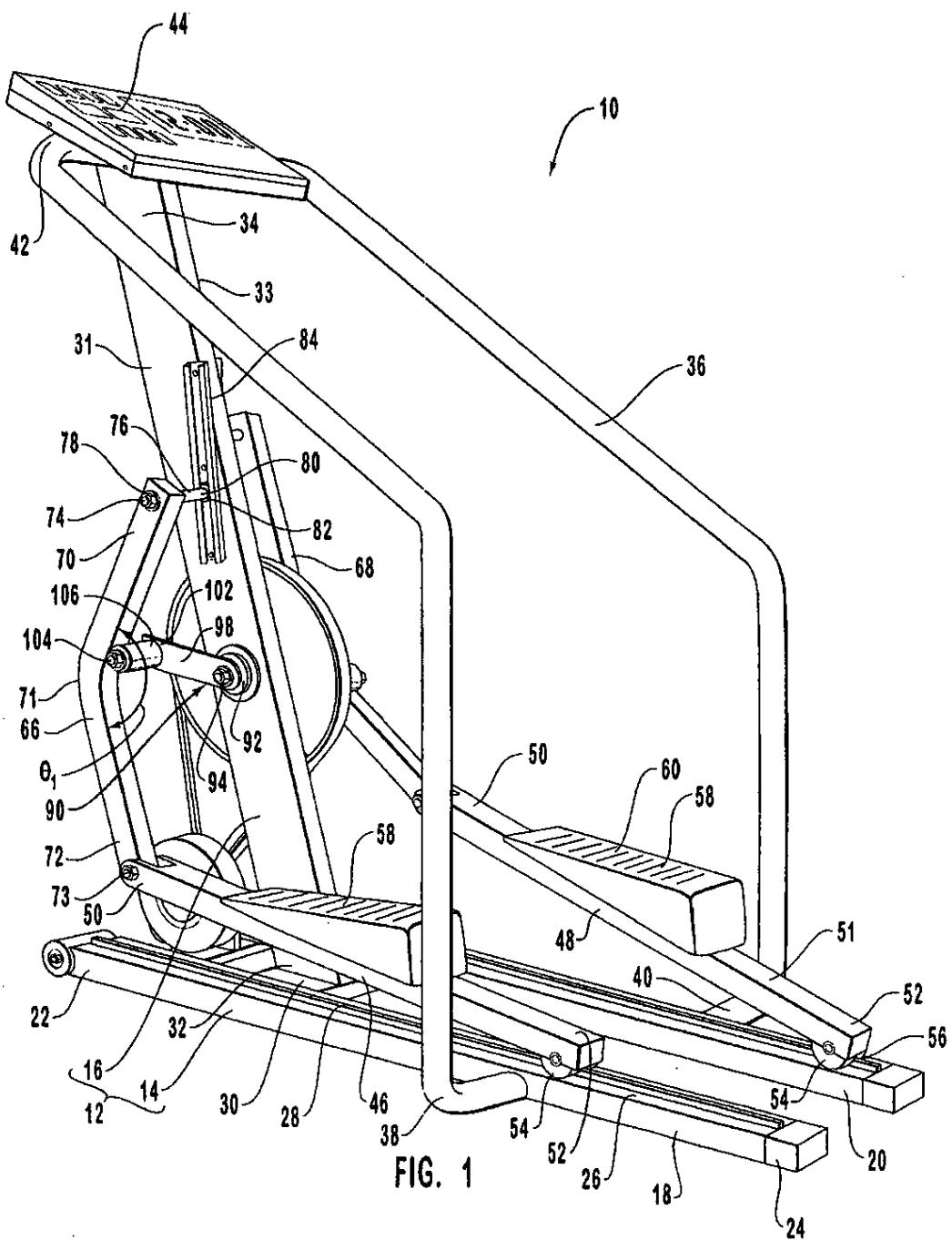
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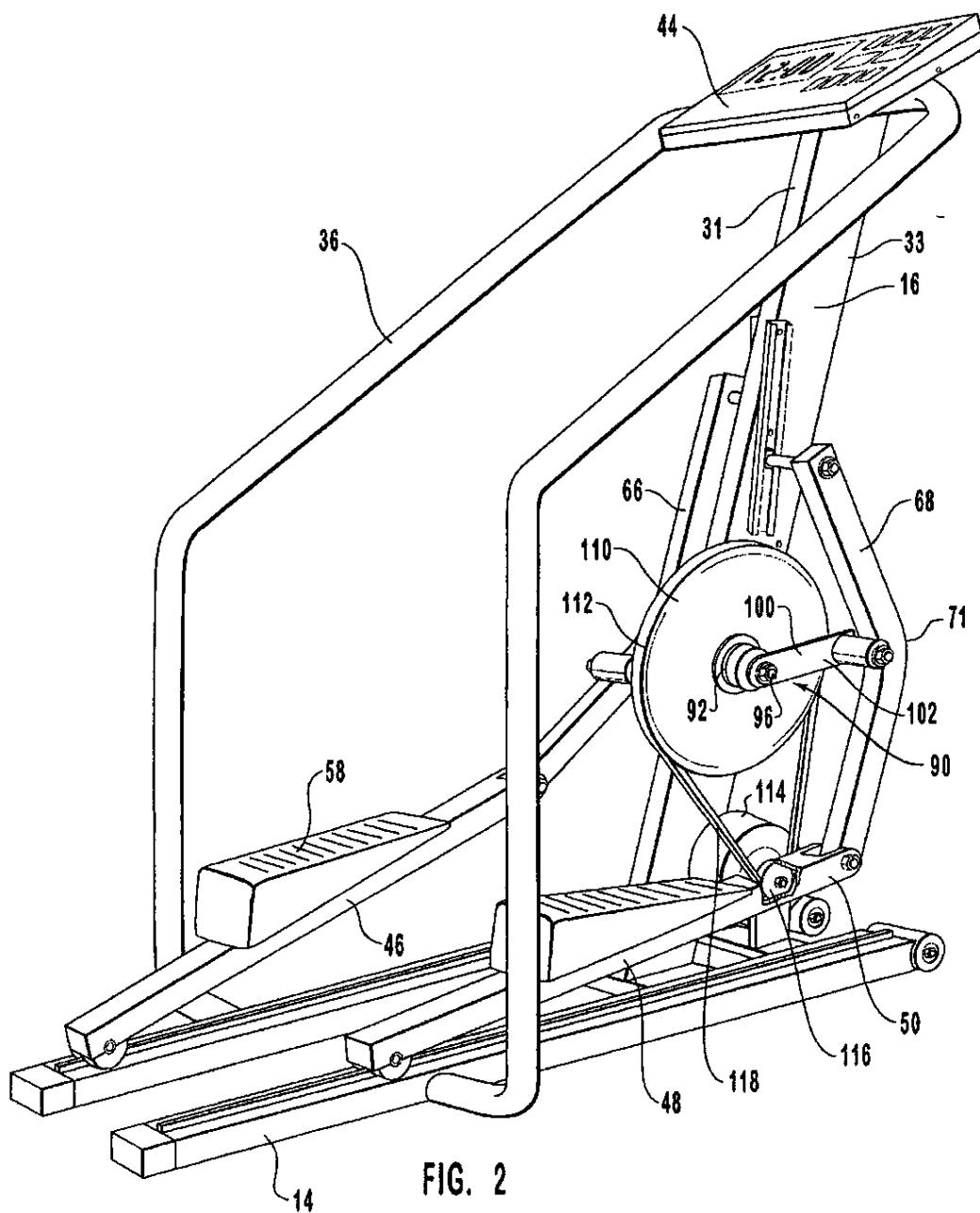


FIG. 2

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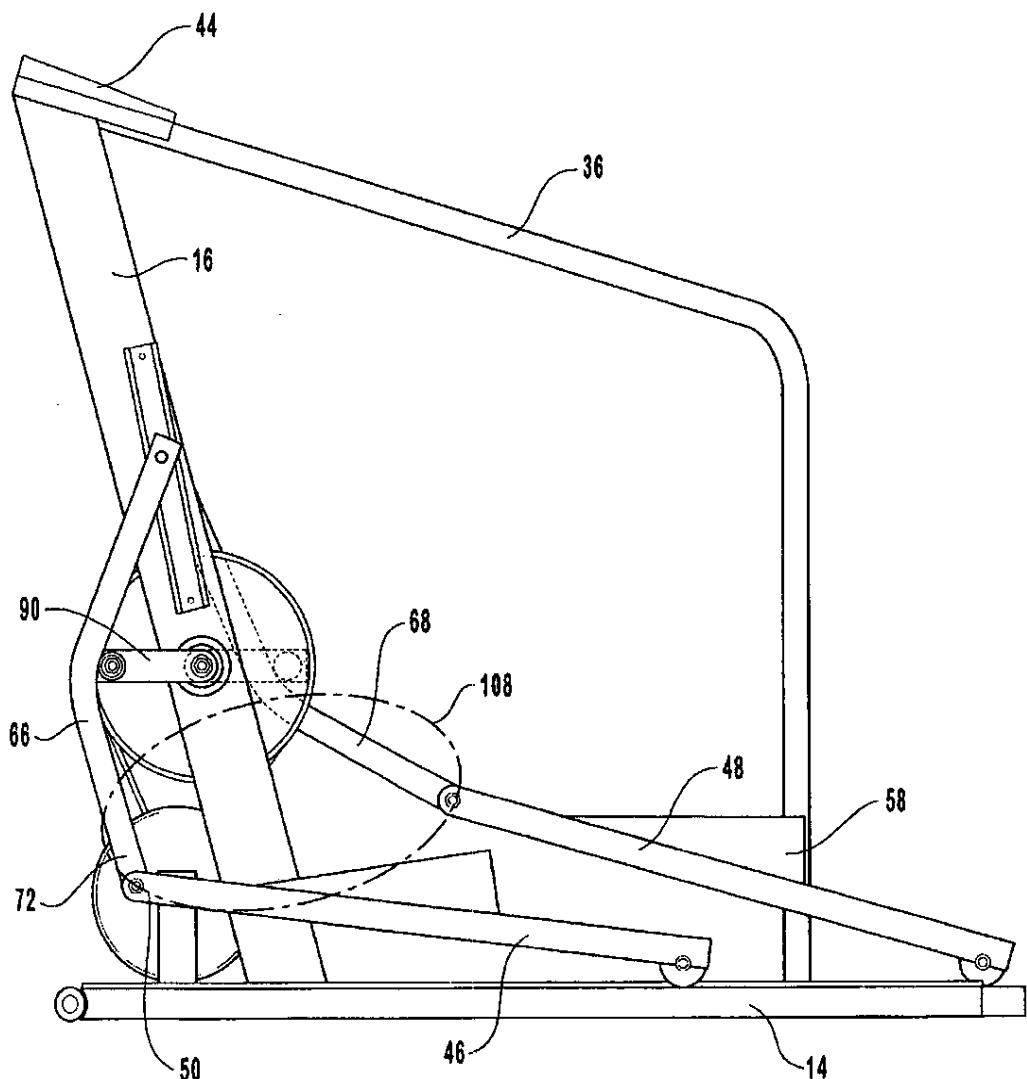


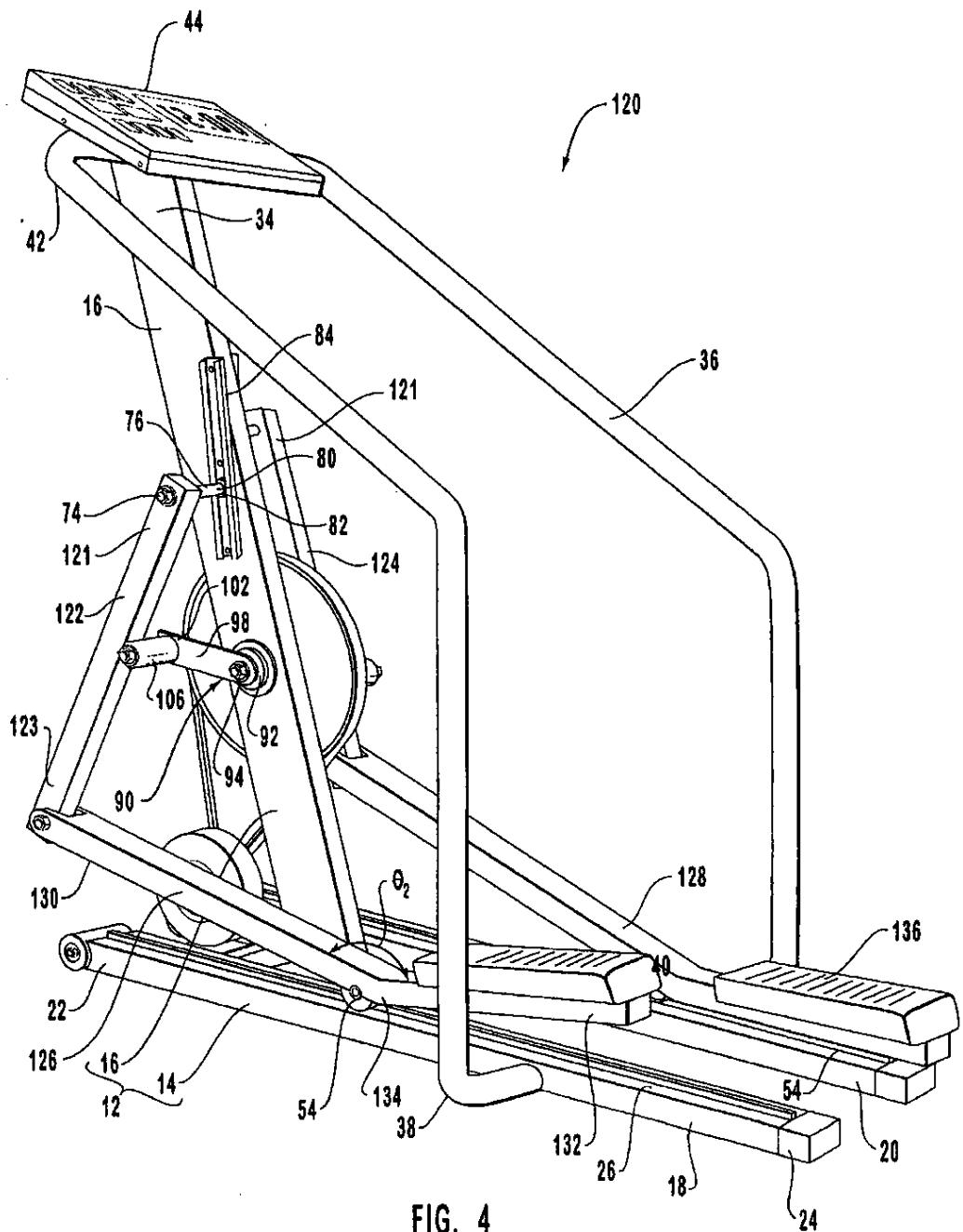
FIG. 3

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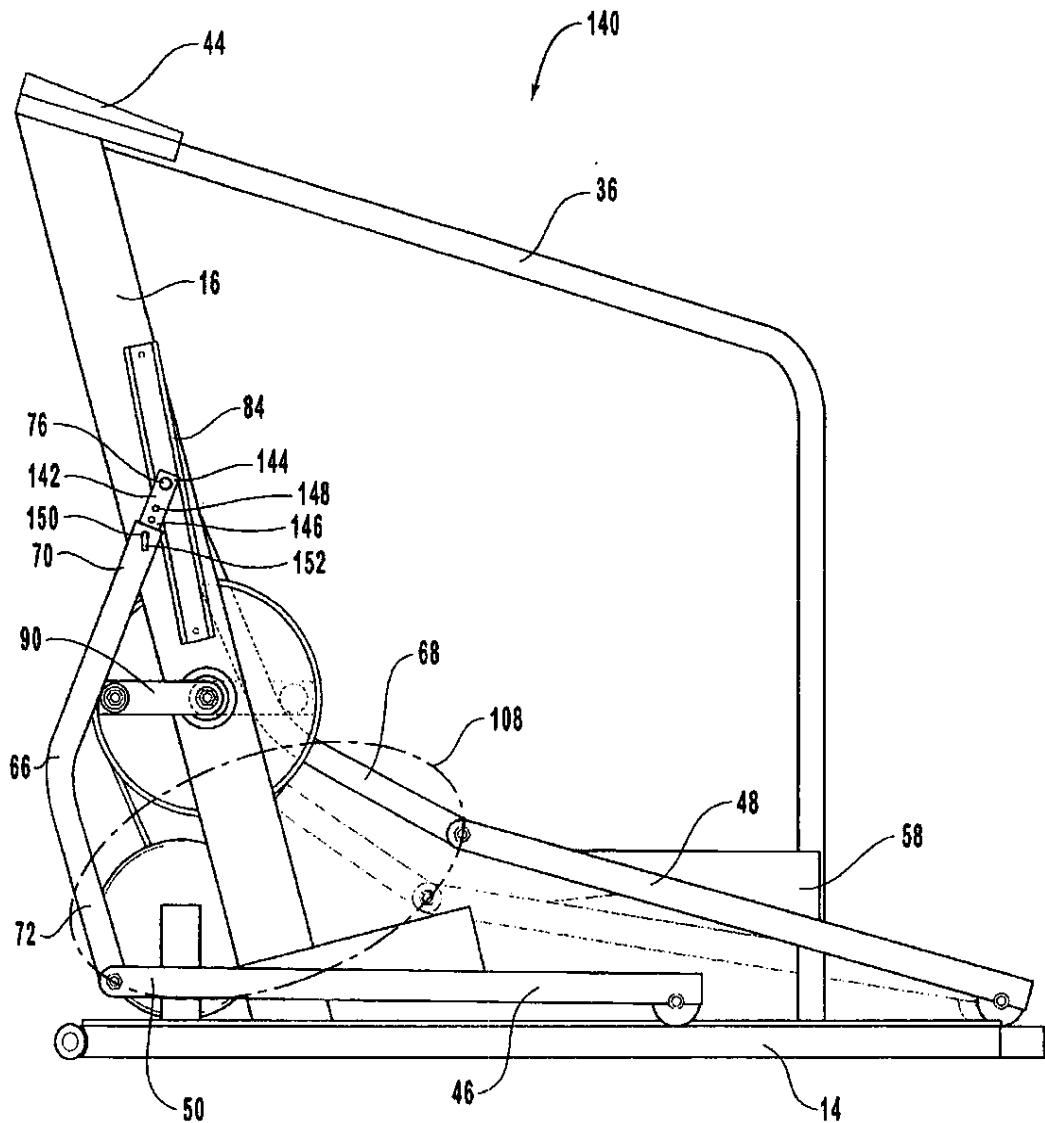


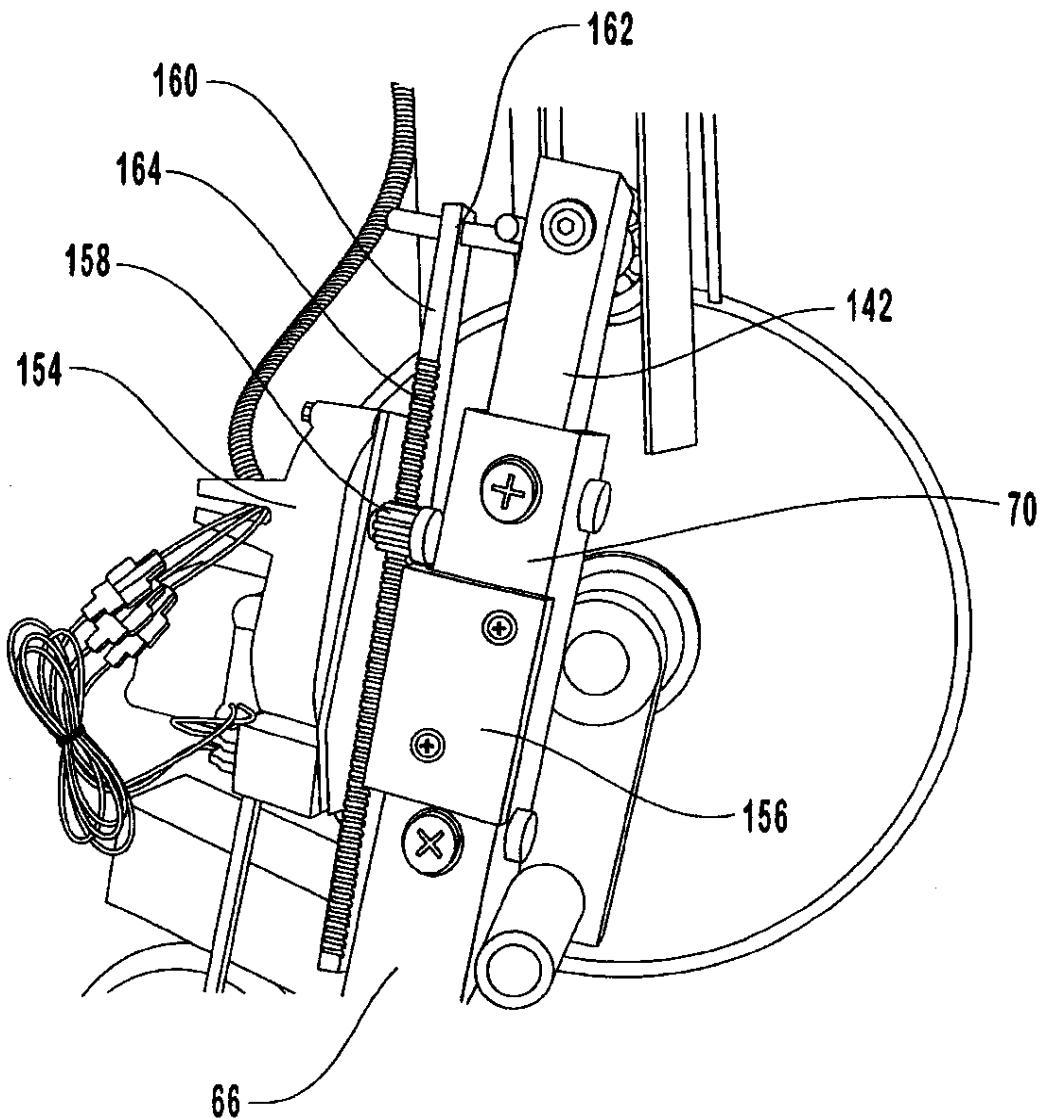
FIG. 5

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**FIG. 6**

## EXERCISING DEVICE WITH ELLIPTICAL MOVEMENT

## BACKGROUND OF THE INVENTION

## 1. The Field of the Invention

The present invention relates to exercise equipment, and, more specifically exercise equipment having elliptical foot displacement.

## 2. The Relevant Technology

A variety of indoor exercising equipment has been developed to exercise leg muscles commonly used in running, skiing, and other outdoor activities. Such machines include treadmills, stepping machines, and various types of sliding machines. Although effective to some extent, each of these machines has select disadvantages. For example, most treadmills wear quickly under the jarring of heavy jogging or running. Furthermore, treadmills have the drawback of producing high impact on the user's legs and knees. One approach that minimizes jarring is to use a stair stepper. Stair steppers, however, do not develop all of the muscles commonly used in running. Furthermore, such machines are difficult to use in sprint type exercises. Finally, sliding machines require the user to slide their feet back and forth along a horizontal plane. Such movement does not mimic running and thus exercises only a limited range of muscles.

Recent designs in exercise equipment have attempted to resolve some of the above problems by having a pair of spaced apart foot rails wherein each front end rotates in an elliptical path while each rear end moves along a horizontal plane. The center of each foot rail, on which the user's feet are positioned, also rotates in an elliptical path. This elliptical path is substantially similar to that commonly encountered during running. Likewise, since the user's feet never leave the foot rails, minimal impact is produced.

Several problems, however, have been encountered with such designs. For example, such apparatus commonly include a complexity of interrelated moving parts. This complexity increases the cost and time of manufacturing. An additional problem with such machines is that the foot rails operate by traveling over a relatively long transverse distance. As a result, the exercise machine requires a relatively large area to operate, thereby making the machines less practical for home use.

Finally, conventional apparatus are designed so that the foot rails move along a set, predefined path. Users of different heights whose stride does not correspond to the predetermined path of the apparatus can find use of the apparatus to be uncomfortable or even impossible.

## OBJECTS AND BRIEF SUMMARY OF THE INVENTION

Accordingly, it is an object of the present invention to provide improved exercise apparatus that produce elliptical foot movement similar to that of running.

Another object of the present invention to provide the above exercise apparatus that have a simpler mechanical design than corresponding prior art designs.

Yet another object of the present invention to provide the above exercise apparatus which require minimal space to operate.

Finally, another object of the present invention is to provide the above exercising apparatus which can be selectively adjusted to match the stride of the user.

To achieve the foregoing objectives, and in accordance with the invention as embodied and broadly described

herein, an exercise apparatus is provided. The exercise apparatus includes a frame having a base configured for resting on a ground surface and a support stand upstanding from the base. A hand rail extends from the top of the support stand to each side of the base. Mounted on top of the hand rail above the support stand is a display board. The exercise apparatus further includes a pair of spaced apart, linear foot rails each having a first end and an opposing second end. The second end of each foot rail slidably rests on the base of the frame. The first end of each foot rail is hingedly attached to the second end of a corresponding stroke rail. Each stroke rail also has a first end slidably attached to the support stand of the frame.

A rotatable crank is also mounted to the support stand. The crank includes an axle rotatably attached to the support stand. A pair of crank arms each orthogonally project from a corresponding end of the axle in opposing directions. Outwardly projecting from each end of the crank arms is a rotatable sleeve. The sleeve is welded or otherwise attached to a corresponding stroke rail between the first and second ends thereof.

During operation, an individual stands on the foot rails and moves their feet in opposing but reciprocating motions. The front end of each foot rail rotates in a substantially elliptical pattern as the result of being hingedly attached to the crank. The second end of each foot rail reciprocates back and forth along the base. The user's feet, disposed between the ends of the foot rails, move in an elliptical pattern, thereby simulating a running motion.

In the preferred design, each stroke rail is formed of a curved member with the crank being mounted at or adjacent to the apex of the curve. By using this configuration, the length of the foot rails is minimized, thereby minimizing the space required to operate the exercise apparatus. In an alternative design, a flywheel can be attached to the axle so as to conserve energy produced by the exerciser.

In alternative embodiments, rather than having the stroke rails curved and the foot rails linear, the stroke rails can be linear and each of the foot rails can be curved. The resulting design operates in substantially the same fashion and produces the same effect. Furthermore, rather than having the first end of each stroke rail directly attached to the frame, an adjustment arm can be positioned therebetween. Each adjustment arm includes a first end slidably attached to the frame and a second end slidably received within a corresponding first end of a stroke rail. By extending or retracting the adjustment arm within the corresponding stroke rail, the effective length of the stroke rail is varied. By varying the effective length of the stroke rail, the stride over which the foot rails travel is varied. Accordingly, by selectively positioning each adjustment arm, the path of the foot rails can be configured to match the user's stride.

These and other objects, features, and advantages of the present invention will become more fully apparent from the following description and appended claims, or may be learned by the practice of the invention as set forth herein-after.

## BRIEF DESCRIPTION OF THE DRAWINGS

In order that the manner in which the above-recited and other advantages and objects of the invention are obtained, a more particular description of the invention briefly described above will be rendered by reference to specific embodiments thereof which are illustrated in the appended drawings. Understanding that these drawings depict only typical embodiments of the invention and are not therefore

to be considered to be limiting of its scope, the invention will be described and explained with additional specificity and detail through the use of the accompanying drawings in which:

FIG. 1 is a left side perspective view of an exercise apparatus;

FIG. 2 is a right side perspective view of the exercise apparatus shown in FIG. 1;

FIG. 3 is a left side view of the exercise apparatus shown in FIG. 1;

FIG. 4 is a left side perspective view of an alternative embodiment of an exercise apparatus having curved foot rails;

FIG. 5 is a left side view of an alternative embodiment of an exercise apparatus having extendable crank arms; and

FIG. 6 is a perspective view of an alternative embodiment for moving the adjustable crank arms as depicted in FIG. 5.

#### DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENTS

Depicted in FIG. 1 is one embodiment of an inventive exercise apparatus 10 incorporating features of the present invention. Exercise apparatus 10 includes a frame 12 comprising a base 14 and a support stand 16 upstanding therefrom. Base 14 includes a pair of spaced apart, elongated tracks 18 and 20. Each of tracks 18 and 20 has a top surface 26 extending between a first end 22 and an opposing second end 24. An alignment ridge 28 upstands from top surface 26 of each track 18 and 20 along the lengths thereof. A cross rail 30 rigidly connects tracks 18 and 20 together.

Support stand 16 has a substantially rectangular transverse cross section with opposing sidewalls 31 and 33. Sidewalls 31 and 33 longitudinally extend between a base end 32 and an opposing top end 34. Base end 32 is securely mounted to cross rail 30.

Mounted to frame 12 is a hand rail 36. Hand rail 36 has a substantially U-shaped configuration with a first end 38 mounted to the outside of track 18 and a second end 40 mounted to the outside of track 20. Hand rail 36 also has a center portion 42 secured to top end 34 of support stand 16. Mounted to center portion 42 over support stand 16 is a display board 44.

Exercise apparatus 10 further includes a linear foot rail 46 positioned on track 18 and a linear foot rail 48 positioned on track 20. Each of foot rails 46 and 48 has a top surface 51 extending between a first end 50 and an opposing second end 52. Positioned on top surface 51 of each foot rail 46 and 48 is a wedge shaped foot pad 58. Each foot pad 58 is configured such that when attached to the corresponding foot rail 46 and 48, a top surface 60 of each foot pad 58 is substantially parallel with the ground.

Rotatably mounted to second end 52 of each foot rail 46 and 48 is a wheel 54. A recessed annular groove encircles each wheel 54. Wheel 54 of foot rail 46 is positioned on top surface 26 of track 18 such that alignment ridge 28 is received within groove 56. Wheel 54 of foot rail 48 is likewise positioned on top surface 26 of track 20 such that alignment ridge 28 thereof is received within groove 56. In this configuration, second end 52 of each foot rail 46 and 48 is free to longitudinally roll along corresponding track 18 and 20 in maintained alignment.

Mounted to first end 50 of foot rail 46 is a curved stroke rail 66. Curved stroke rail 66 has a first end 70, an opposing second end 72, and a curved apex 71 formed therebetween. Curved apex has an inside angle  $\theta_1$  in a range between about

120° to about 170° with about 140° to about 160° being preferred. Second end 72 is hingedly mounted to first end 50 of foot rail 46 by a pin 73. The present invention also provides attaching means for attaching first end 70 to support stand 16 so as to simultaneously enable annular rotation and linear displacement of first end 70. By way of example and not by limitation, a pin 76 has a first end 74 transversely extending through first end 70 of stroke rail 66. A nut 78 attaches to first end 74 of pin 76 to prevent separation of stroke rail 66 therefrom. In this position, first end 70 of stroke rail 66 can freely rotate relative the longitudinal axis of pin 76.

Pin 76 also has a second end 80 with a flared head 82 positioned thereat. Flared head 82 is slidably captured within a C-shaped channel 84 that is mounted on support stand 16. First end 70 of stroke rail 66 is thus linearly displaced as pin 76 is slidably moved within channel 84.

As depicted in FIG. 2, a curved stroke rail 68 extends between first end 50 of foot rail 48 and support stand 16. Stroke rail 68 has the same configuration as stroke rail 66 and is attached to foot rail 48 and support stand 16 using the same structures as discussed above with regard to stroke rail 66. Accordingly, like structural elements between stroke rails 66 and 68 and how they are attached are identified by like reference characters.

The present invention also includes connecting means for connecting each stroke rail 66 and 68 to frame 12 such that linear reciprocating displacement of first end 70 of each stroke rail 66 and 68 results in displacement of second end 72 of each stroke rail 66 and 68 in a substantially elliptical path. By way of example and not by limitation, as depicted in FIGS. 1 and 2, a crank 90 is disclosed. Crank 90 includes an axle 92 extending through support stand 16 and being rotatably mounted thereto. Axle 92 has a first end 94 projecting from side 31 of support stand 16 and an opposing second end 96 projecting from side 33 of support stand 16.

A first crank arm 98 is rigidly attached to and orthogonally projects from end 94 of axle 92. A second crank arm 100 is rigidly attached to and orthogonally projects from end 96 of axle 92. Crank arms 98 and 100 project in opposing directions.

The connecting means also includes coupling means for coupling each crank arm 98 and 100 to a corresponding stroke rail 64 and 66 so as to enable free rotation of axle 92. By way of example and not by limitation, each crank arm 98 and 100 terminates at a distal end 102. Outwardly projecting from distal end 102 of first crank arm 98 in substantial parallel alignment with axle 92 is a pin 104. Freely encircling pin 104 is a collar 106. In turn, collar 106 is spot welded or otherwise secured to stroke rail 66 at or adjacent to apex 71.

In like manner, outwardly projecting from distal end 102 of second crank arm 100 in substantial parallel alignment with axle 92 is a pin 105. Freely encircling pin 105 is a collar 107. Collar 107 is spot welded or otherwise secured to stroke rail 68 at or adjacent to apex 71. Crank 90 thus interconnects stroke rails 64 and 66 while still enabling annular rotation of axle 92. As a result of stroke rails 66 and 68 being curved, as opposed to straight, the effective length of foot rails 46 and 48 can be decreased, thereby minimizing the space that exercise apparatus 10 occupies.

During use, an individual faces display board 44 with their feet positioned on corresponding foot pads 58. Foot rails 46 and 48 on which foot pads 58 are mounted are located in displaced or offset position relative to each other as a result of crank arms 98 and 100 projecting in opposing directions. Specifically, as depicted in FIG. 1, with crank

arm 98 rotated into a forward position, second end 52 of foot rail 46 is advanced into a forward position while first end 70 of stroke rail 66 is disposed into a lowered position. Simultaneously, second crank arm 100 is oriented in a rearward position with second end 52 of foot rail 48 advanced into a rearward position and first end 70 of stroke rail 68 advanced into an upward position.

As a user applies a down and rearward force on foot pad 58 overlying foot rail 46, crank 90 rotates 180° causing stroke rail 66 and 68 and foot rails 46 and 48 to simultaneously reverse their relative positioned as depicted in FIG. 2. A similar force can then be applied to foot pad 58 overlying foot rail 48, thereby enabling continuous reciprocating displacement of the relative components. During this continued reciprocating motion, the hinged connection between first end 50 of each foot rail 46 and 48 and second end 72 of each stroke rail 66 and 68 rotates in a substantially elliptical path as depicted by dash line 108 in FIG. 3. This elliptical path results in each foot pad 58 also traveling in a substantially elliptical path similar to that occurring during walking or jogging.

In one embodiment of the present invention, means are also provided for conserving momentum generated by rotation of crank 90. As depicted in FIG. 2, by way of example and not by limitation, mounted on axle 92 is an enlarged annular flywheel 110 having a grooved annular edge 112. A weighted wheel 114 is rotatably attached to frame 12 adjacent to flywheel 110. Attached to the side of weighted wheel 114 in axle alignment therewith is a drive wheel 116. A belt 118 loops between flywheel 110 and drive wheel 116. Accordingly, as axle 92 is rotated, flywheel 110 is simultaneously rotated. This force is transferred through belt 118 to drive wheel 116. In turn, weighted wheel 114 is rotated. As a result of the increased weight of wheel 114, once wheel 114 begins to rotate, the force produced therein is transferred back into flywheel 110 to maintain even, continued reciprocating displacement of stroke rails 64 and 66.

Depicted in FIG. 4 is an alternative embodiment of an inventive exercise apparatus 120. Exercise apparatus 10 and 120 operate in substantially the same way and share many of the same structural elements. Accordingly, like structural elements between exercise apparatus 10 and 120 are identified by like reference characters. In contrast, however, curved stroke rails 66 and 68 of exercise apparatus 10 are replaced by corresponding linear stroke rails 122 and 124. Stroke rails 122 and 124 each have a first end 121 slidably attached to support stand 16 and an opposing second end 123. Furthermore, linear foot rails 46 and 48 of exercise apparatus 10 are replaced by corresponding curved foot rails 126 and 128. Each curved foot rail 126 and 128 has a first end 130, an opposing second end 132, and a curved apex 134 positioned therebetween. First end 130 of each rail 126 and 128 is hingedly attached to a second end 123 of a corresponding stroke rail 122 and 124. Curved apex 134 has an inside angle  $\theta_2$  in a range between about 120° to about 170° with about 140° to about 160° being preferred. Mounted at or adjacent to apex 134 is wheel 54 which rides on a corresponding track 18 or 20. Mounted on second end 132 of each foot rail 126 and 128 is a foot pad 136 for receiving a corresponding foot of a user.

Exercise apparatus 120 has many of the same benefits as exercise apparatus 10. For example, compared to conventional apparatus, exercise apparatus 120 has a relatively simple mechanical configuration and requires minimal operating space. Furthermore, operation of exercise apparatus 120, which is the same as that previously discussed with exercise apparatus 10, produces a substantially elliptical

displacement of foot pads 136, thereby simulating the movement of walking or running.

Depicted in FIG. 5 is yet another alternative embodiment of an exercise apparatus 140. Exercise apparatus 140 is substantially similar to exercise apparatus 10. Accordingly, like structural elements between exercise apparatus 10 and 140 are identified by like reference characters.

In one embodiment of the present invention, means are provided for selectively varying the size of the substantially elliptical path that second end 72 of each stroke rail 66 and 68 travels. By way of example and not by limitation, in contrast to exercise apparatus 10, slidably received with first end 70 of each curved stroke rail 66 and 68 is an adjustment arm 142. Each adjustment arm 142 has a first end 144 from which pin 76 projects for slidably attachment with channel 84. Each adjustment arm 142 also has an opposing second end 146 that is slidably disposed within first end 70 of each stroke rail 66 and 68.

The present invention also includes means for selectively positioning each adjustment arm 142 relative to a corresponding stroke rail 66 and 68. By way of example and not by limitation, a plurality of holes 148 extend through adjustment arm 142 along the length thereof. A complementary hole 150 likewise passes through first end 70 of each stroke rail 66 and 68. Once adjustment arm 142 is slid to a desired position, a pin 152 is passed through aligned holes 150 and 148 so as to securely retain adjustment arm 142 in the desired position.

By selectively extending each adjustment arm 142 out of a corresponding stroke rail 66 and 68 or retracting each adjustment arm 142 into a corresponding stroke rail 66 and 68, the effective length of each stroke rail 66 and 68 varies. As the effective length varies, the size of the elliptical path that second end 72 of stroke rails 66 and 68 travel varies. That is, as the effective length increases, the diameter of the elliptical path increases. Conversely, as the effective length decreases, the diameter of the elliptical path decreases. The size of the elliptical path that foot pads 58 travel varies correspondingly to the elliptical path at second end 72 of stroke rails 66 and 68. Accordingly, by varying the effective length of stroke rails 66 and 68, the path that foot pads 58 travel can be selected to correspond to the stride of the user.

There are a variety of alternative embodiments of the means for selectively varying the size of the substantially elliptical path that second end 72 of each stroke rail 66 and 68 travels. By way of example, stroke rails 66 and 68 can be extended at either end or in the middle. Furthermore, the lengths of foot rail 46 and 48 can also be selectively varied.

Depicted in FIG. 6 is an alternative embodiment of the means for positioning adjustment arm 142 relative to a corresponding stroke rail. As disclosed therein, an electric motor 154 is mounted to second end 70 of stroke rail 66 by a bracket 156. Rotatably extending from motor 154 is a gear 158. An elongated engagement bar 160 has a first end 162 secured to adjustment arm 142 and a plurality of teeth 164 extending along the length thereof. Engagement bar 160 is biased against gear 158 such that teeth 164 engage with gear 158. Accordingly, as motor 154 is energized by a switch, gear 150 is selectively rotated clockwise or counter clockwise. In turn, this rotation selectively raises or lowers engagement bar 160 which in turn selectively raises or lowers adjustment arm 142 relative to stroke arm 66.

In the preferred embodiment, a complementary assembly of the motor 154 and engagement bar 160 are attached to stroke rail 68. Each of the motors 154 can thus simultaneously engage to simultaneously adjust each adjustment arms 142 a desired distance.

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The present invention may be embodied in other specific forms without departing from its spirit or essential characteristics. The described embodiments are to be considered in all respects only as illustrative and not restrictive. The scope of the invention is, therefore, indicated by the appended claims rather than by the foregoing description. All changes which come within the meaning and range of equivalency of the claims are to be embraced within their scope.

What is claimed and desired to be secured by United States Letters Patent is:

1. An exercise apparatus comprising:

- (a) a frame configured for resting on a ground surface;
- (b) a pair of spaced apart foot rails each having a first end and an opposing second end, each foot rail being configured to receive a corresponding foot of a user;
- (c) a pair of stroke rails each having a first end and an opposing second end, the second end of each stroke rail being hingedly attached to the first end of a corresponding foot rail;
- (d) means for connecting each stroke rail to the frame such that linear reciprocating displacement of the first end of each stroke rail results in displacement of the second end of each stroke rail in a substantially elliptical path; and
- (e) means for selectively varying the size of the substantially elliptical path that the second end of each stroke rail travels.

2. An exercise apparatus as recited in claim 1, wherein the means for connecting comprises:

- (i) an axle having opposing ends, the axil being rotatably mounted to the frame;
- (ii) a crank arm rigidly mounted on each opposing end of the axil; and
- (iii) means for coupling each crank arm to a corresponding stroke rail so as to enable free rotation of the axle.

3. An exercise apparatus as recited in claim 2, wherein the means for coupling comprises:

- (i) a pin projecting from each crank arm; and
- (ii) a tubular sleeve rotatably disposed over each pin, each tubular sleeve being rigidly secured to a corresponding stroke rail.

4. An exercise apparatus as recited in claim 2, further comprising means for conserving momentum generated by rotation of the axil.

5. An exercise apparatus as recited in claim 4, wherein the means for conserving momentum comprises:

- (a) a flywheel mounted to the axis;
- (b) a weighted wheel rotatably mounted to the frame; and
- (c) a belt extending from the flywheel to the weighted wheel.

6. An exercise apparatus as recited in claim 1, wherein the means for selectively varying comprises a pair of adjustment arms each having a first end slidably mounted to the frame and an opposing second end adjustably mounted to the first end of a corresponding stroke rail.

7. An exercise apparatus as recited in claim 1, wherein the frame comprises a pair of spaced apart tracks and a support stand upstanding therebetween.

8. An exercise apparatus as recited in claim 1, wherein the first end of each stroke rail is slidably attached to the frame.

9. An exercise apparatus as recited in claim 1, wherein each stroke rail is curved.

10. An exercise apparatus as recited in claim 1, wherein each foot rail is curved.

11. An exercise apparatus as recited in claim 1, further comprising a wheel mounted on each foot rail and disposed on the frame.

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12. An exercise apparatus comprising:

- (a) a frame configured for resting on a ground surface and having an support stand;
- (b) a pair of spaced apart foot rails each having a first end and an opposing second end, each foot rail being configured to receive a corresponding foot of a user;
- (c) a pair of stroke rails each having a first end and an opposing second end, the first end of each stroke rail being slidably attached to the support stand of the frame, the second end of each stroke rail being hingedly attached to the first end of a corresponding foot rail; and
- (d) means for connecting each stroke rail to the frame such that linear reciprocating displacement of the first end of each stroke rail results in displacement of the second end of each stroke rail in a substantially elliptical path.

13. An exercise apparatus as recited in claim 12, wherein the means for connecting comprises:

- (i) an axle having opposing ends, the axil being rotatably mounted to the frame;
- (ii) a crank arm rigidly mounted on each opposing end of the axle; and
- (iii) means for coupling each crank arm to a corresponding stroke rail so as to enable the axil to continue to freely rotate.

14. An exercise apparatus as recited in claim 13, wherein the means for coupling comprises:

- (i) a pin projecting from each crank arm; and
- (ii) a tubular sleeve rotatably disposed over each pin, each tubular sleeve being rigidly secured to a corresponding stroke rail.

15. An exercise apparatus as recited in claim 13, further comprising means for conserving momentum generated by rotation of the axle.

16. An exercise apparatus as recited in claim 12, wherein each stroke rail is curved.

17. An exercise apparatus as recited in claim 12, wherein each foot rail is curved.

18. An exercise apparatus as recited in claim 12, further comprising a wheel mounted on each foot rail and disposed on the frame.

19. An exercise apparatus as recited in claim 12, wherein the second end of each foot rail is freely suspended above a portion of the frame.

20. An exercise apparatus as recited in claim 12, further comprising a foot pad mounted on each foot rail.

21. An exercise apparatus as recited in claim 12, further comprising a hand rail attached to the support stand of the frame.

22. An exercise apparatus as recited in claim 12, further comprising a pair of adjustment arms each having a first end slidably mounted to the frame and an opposing second end adjustably mounted to the first end of a corresponding stroke rail.

23. An exercise apparatus comprising:

- (a) a frame configured for resting on a ground surface and having a support stand;
- (b) first and second crank arms rotatably mounted to the support stand of the frame, the crank arm rotating about a fixed axis;
- (c) first and second foot rails having a first end and an opposing second end, a portion of the first foot rail movably resting on the frame;
- (d) stroke means extending between the crank arms and the hingedly attached to said four rails & for rotating

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6,019,710

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the end of the first foot rails in a substantially elliptical path when the crank arms are rotated in a circular path.

24. An exercise apparatus as recited in claim 23, wherein the stroke means comprises a first stroke rail having a first end and an opposing second end, the second end of the first stroke rail being hingedly attached to the first end of the first foot rail, the crank arm being attached to the first stroke rail between the first end and the second end thereof, the crank arm being attached so as to enable rotation of the crank arm.

25. An exercise apparatus as recited in claim 24, further comprising an adjustment arm having a first end slidably mounted to the frame and an opposing second end adjustably mounted to the first stroke rail.

26. An exercise apparatus as recited in claim 23, further comprising means for conserving momentum generated by rotation of the crank arm.

27. An exercise apparatus as recited in claim 24, wherein the first stroke rail is linear and the first foot rail is curved.

28. An exercise apparatus as recited in claim 24, wherein the first stroke rail is curved and the first foot rail is linear.

29. An exercise apparatus as recited in claim 23, further comprising:

(a) a second crank arm rotatably mounted to the support stand of the frame, the second crank arm rotating about a fixed axis;

(b) a second foot rail having a first end and an opposing second end; and

(c) a second stroke rail having a first end slidably attached to the support stand of the frame and a second end hingedly attached to the first end of the second foot rail, the second crank being attached to the second stroke rail between the first and second ends thereof.

30. An exercise apparatus comprising:

(a) a frame comprising a base configured for resting on a ground surface and a support stand;

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(b) a pair of spaced apart foot rails each having a first end and an opposing second end, a portion of each foot rail resting on the base of the frame;

(c) a pair of adjustment arms each having a first end slidably attached to the support stand and an opposing second end;

(d) a pair of stroke rails each having a first end and an opposing second end, the second end of each stroke rail being hingedly attached to the first end of a corresponding foot rail; and

(e) means for adjustably attaching the second end of the adjustment arm to a corresponding stroke rail.

31. An exercise apparatus as recited in claim 30, wherein the means for adjustable attaching comprises the second end of each adjustment arm being configured to be received within the first end of a corresponding stroke rail.

32. An exercise apparatus as recited in claim 30, further comprising a rotatable crank including:

(i) an axle having opposing ends, the axle being rotatably mounted to the support stand of the frame;

(ii) a pair of crank arms each orthogonally projecting from a corresponding end of the axle in opposing directions; and

(iii) means for coupling each crank arm to a corresponding stroke rail between the first and second end of the corresponding stroke rail such that as the second end of each foot rail reciprocates in a lateral movement, the first end of each foot rail moves in an elliptical path.

33. An exercise apparatus as recited in claim 30, wherein each of the stroke rails are curved.

34. An exercise apparatus as recited in claim 30, wherein each of the foot rails are curved.

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\* \* \* \* \*

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UNITED STATES PATENT AND TRADEMARK OFFICE  
CERTIFICATE OF CORRECTION

PATENT NO. : 6,019,710

Page 1 of 2

DATED : Feb. 1, 2000

INVENTOR(S) : William T. Dalebout; Steven Mott

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

Col. 1, line 12, change "develop" to --developed--

Col. 1, line 56, after "invention" insert --is--

Col. 1, line 60, after "invention" insert --is--

Col. 2, line 52, after "can" insert --be--

Col. 4, line 40, after "from" insert --second--

Col. 4, line 49, after "with" change "axil" to --axle--

Col. 4, line 58, change "axil" to --axle--

Col. 5, line 11, after "relative" change "positioned" to --position--

Col. 6, line 62, after "stroke" change "arm" to --rail--

Col. 6, line 67, change "arms" to --arm--

Col. 7, line 29, change "axil" to --axle--

Col. 7, line 32, change "axil" to --axle--

Col. 7, line 44, change "axil" to --axle--

Col. 8, line 3, after "having" change "an" to --a--

UNITED STATES PATENT AND TRADEMARK OFFICE  
CERTIFICATE OF CORRECTION

PATENT NO. : 6,019,710  
DATED : Feb. 1, 2000  
INVENTOR(S) : William T. Dalebout; Steven Mott

Page 2 of 2

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

Col. 8, line 20, change "axil" to --axle--

Col. 8, line 25, change "axil" to --axle--

Col. 8, line 67, after "said" change "four rails &" to --first foot rail--

Col. 9, line 1, after "the" insert --first-- and after "foot" change "rails" to --rail--

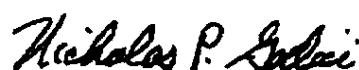
Col. 9, line 2, after "circular" change "path." to --path; wherein said stroke means is slidably mounted in the frame--

Col. 9, line 36, after "and" change "an" to --a--

Col. 10, line 20, after "an" change "axil" to --axle--

Signed and Sealed this  
Third Day of April, 2001

Attest:



NICHOLAS P. GODICI

Attesting Officer

Acting Director of the United States Patent and Trademark Office

Workman Nydegger P.C.  
 60 East South Temple, Suite 1000  
 Salt Lake City, UT 84111  
 Telephone (801) 533-9800  
 Facsimile (801) 328-1707

**UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA**

ICON HEALTH & FITNESS, INC., a Delaware corporation,

PLAINTIFF(S)

v.

OCTANE FITNESS, LLC, a Minnesota limited liability company, and NELLIE'S EXERCISE EQUIPMENT, INC., a California corporation,

DEFENDANT(S).

CASE NUMBER

**SACV08-00437 CJC (RNBx)**

**SUMMONS**

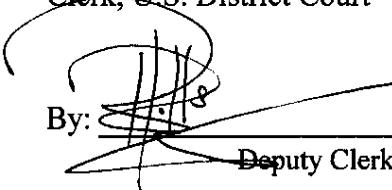
TO:DEFENDANT(S): OCTANE FITNESS, LLC and NELLIE'S EXERCISE EQUIPMENT, INC.

A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached  complaint  amended complaint  counterclaim  cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Sterling A. Brennan, whose address is 1000 Eagle Gate Tower, 60 East South Temple, Salt Lake City, Utah 84111. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Dated: APR 23 2008

Clerk, U.S. District Court

By: 

Deputy Clerk

*(Seal of the Court)*

*[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3).]*

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET

<b>I (a) PLAINTIFFS</b> (Check box if you are representing yourself <input type="checkbox"/> ) ICON HEALTH & FITNESS, INC., a Delaware corporation	<b>DEFENDANTS</b> OCTANE FITNESS, LLC, a Minnesota limited liability company, and NELLIE'S EXERCISE EQUIPMENT, INC., a California corporation
<b>(b) County of Residence of First Listed Plaintiff (Except in U.S. Plaintiff Cases):</b> Cache County, Utah	<b>County of Residence of First Listed Defendant (In U.S. Plaintiff Cases Only):</b>
<b>(c) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)</b> Sterling A. Brennan, Esq., Workman Nydegger P.C., 60 East South Temple, Suite 1000, Salt Lake City, Utah 84111, Telephone: (801) 533-9800	<b>Attorneys (If Known)</b>

<b>II. BASIS OF JURISDICTION</b> (Place an X in one box only.)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only</b> (Place an X in one box for plaintiff and one for defendant.)			
<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)	Citizen of This State	<input type="checkbox"/> PTF <input type="checkbox"/> DEF	<input type="checkbox"/> PTF <input type="checkbox"/> DEF
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	Citizen of Another State	<input type="checkbox"/> 2 <input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State
		Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3	<input type="checkbox"/> Foreign Nation
				<input type="checkbox"/> 6 <input type="checkbox"/> 6

<b>IV. ORIGIN</b> (Place an X in one box only.)	<input checked="" type="checkbox"/> 1 Original <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify): <input type="checkbox"/> 6 Multi-District Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge
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<b>V. REQUESTED IN COMPLAINT: JURY DEMAND:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (Check 'Yes' only if demanded in complaint.)	<b>CLASS ACTION under F.R.C.P. 23:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <b>MONEY DEMANDED IN COMPLAINT: \$</b>
---	---

<b>VI. CAUSE OF ACTION</b> (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.) 35 U.S.C. sections 271, 281, 283, 284 and 285, Patent Infringement Claims
--

<b>OTHER STATUTES</b>	<b>CONTRACT</b>	<b>TORTS</b>	<b>TORTS</b>	<b>PRISONER PETITIONS</b>	<b>LABOR</b>
<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities /Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 515 Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/ Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition
	<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
				<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g))	<b>PROPERTY RIGHTS</b> <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
				<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

**VIII(a). IDENTICAL CASES:** Has this action been previously filed and dismissed, remanded or closed?  No  Yes

If yes, list case number(s):

FOR OFFICE USE ONLY: Case Number: **SACV08-00437 CJC (RNbx)**

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(b). RELATED CASES: Have any cases been previously filed that are related to the present case?  No  Yes

If yes, list case number(s): \_\_\_\_\_

Civil cases are deemed related if a previously filed case and the present case:

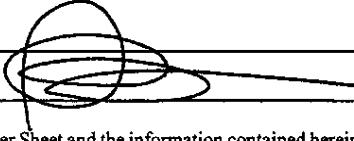
- (Check all boxes that apply)  A. Arise from the same or closely related transactions, happenings, or events; or  
 B. Call for determination of the same or substantially related or similar questions of law and fact; or  
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or  
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: List the California County, or State if other than California, in which EACH named plaintiff resides (Use an additional sheet if necessary)  
 Check here if the U.S. government, its agencies or employees is a named plaintiff.

Icon Health &amp; Fitness, Inc., Utah

List the California County, or State if other than California, in which EACH named defendant resides. (Use an additional sheet if necessary).  
 Check here if the U.S. government, its agencies or employees is a named defendant.Octane Fitness, LLC, Minnesota  
Nellie's Exercise Equipment, Inc., Orange County, CaliforniaList the California County, or State if other than California, in which EACH claim arose. (Use an additional sheet if necessary)  
Note: In land condemnation cases, use the location of the tract of land involved.

Orange County, California

X. SIGNATURE OF ATTORNEY (OR PRO PER):  Date April 22, 2008

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge Cormac J. Carney and the assigned discovery Magistrate Judge is Robert N. Block.

The case number on all documents filed with the Court should read as follows:

**SACV08- 437 CJC (RNBx)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

Western Division  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

Southern Division  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

Eastern Division  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.